

CODES OF GOOD PRACTICE 2005

Pursuant to section 15(1)(a) of the Public Service Act 2005¹, I,

PAKALITHA BETHUEL MOSISILI

Prime Minister of Lesotho and Minister responsible for public service, make the following codes –

PART I – CODE OF CONDUCT

(Section 15(1)(a)(i))

Preamble

1. (1) The Government of Lesotho acknowledges that the ends sought by the public service of Lesotho are the development of the country and well being of its citizens, and that these ends can be achieved through diligence, perseverance and dedication of a disciplined corps of public officers who are instrumental in carrying out government policies. Each public officer in accepting an appointment to the public service of Lesotho accepts personal responsibility for developing and exhibiting a strong work ethic and affirms his or her commitment to combating negative work habits in the public service of Lesotho.

(2) This Code of Conduct (hereinafter referred to as “Code”) is made in the conviction that employment in the public service places a public officer under a moral obligation to work conscientiously to earn his or her living and look upon his or her work as a contribution to making the economy of Lesotho strong and healthy.

(3) This Code shall be viewed primarily as a guide to public officers in their relationships and dealings with their employer and the general public.

(4) The Code provides a guidance on the standards of behavior required of public officers.

(5) Public officers are therefore urged to adhere to this Code in order to create a conducive working environment for the betterment of the society as a whole.

Interpretation

2. This Code supplements and should therefore be read as one with the Public Service Act 2005 and the regulations made under it.

Conduct of public officers

3. (1) A public officer shall –
- (a) at all times have absolute and undivided loyalty to the Constitution and the lawfully constituted Government;
 - (b) support and maintain the Government of Lesotho according to the Constitution and other laws of Lesotho;
 - (c) serve the people of Lesotho with respect and promote their welfare and lawful interests;
 - (d) strive to excel in all his or her endeavors by being an example to others;
 - (e) perform all duties and exercise all powers that have been assigned by a proper authority to his or her office, or that are appropriate at the material time to the grade, designation or classification of that office, diligently and impartially and to the best of his or her ability;
 - (f) in relation to his or her official duties, account for and make prompt or true return of, any money or property for which he or she is responsible;
 - (g) place all of his or her time at the disposal of Government;

- (h) when required in the course of his or her duty to perform a service of which, if performed otherwise than in the public service, a charge would lawfully be payable he or she shall report the fact to the Minister, who shall, with the approval of the Minister responsible for finance decide what amount should be charged or paid for that service, and the amount shall be paid into the Consolidated Fund or into such other fund as may be determined by the Minister in Consultation with the Minister responsible for finance;
- (i) disclose to proper authority any misconduct, the commission of which he or she knows or ought to have known;
- (j) disclose to proper authority his or her direct or indirect financial interest (including loans and shares) in any undertaking;
- (k) show courtesy and decency in his or her communication about any person or matter that is under consideration or forms the subject of comment or response;
- (l) refrain from use of insulting or intimidating words to the authority, fellow public officer or members of the public or from showing disrespect to any of them;
- (m) wear official identity tags at all times during office hours;
- (n) when on official duty, dress and behave in a manner that enhances the reputation of the public service;
- (o) accept the responsibility to avail himself or herself of ongoing training and self development throughout his or her career.

(2) A public officer shall not-

- (a) become pecuniary embarrassed from any cause, and shall not be subjected to any disciplinary action if he

shows that, his or her pecuniary embarrassment has not been occasioned by imprudence or reprehensible cause and that the faithful performance of his or her duty has not been affected;

- (b) absent himself or herself from his or her official duties during office hours without leave nor be late for duty without a valid excuse, the validity of which shall be determined by the immediate supervisor or head of department;
- (c) without the approval of the Minister, undertake remunerative or unpaid work outside his or her official duties or use office equipment or other resources for such work;
- (d) use official property, premises and time for personal and private purposes unless authorised to do so;
- (e) unless authorised by law or the terms of appointment or by the Minister, accept any fee, reward or remuneration of any kind beyond his or her emoluments for the performance of any service of the Government;
- (f) by any act or omission willfully fail to comply with, or willfully disregard, any provision of a law or any lawful instruction given by any proper authority;
- (g) knowingly make any false, misleading or inaccurate statement, either orally or in any official document or book, or sign any such document, or destroy any document or book whether electronically stored or otherwise or alter or erase any entry with intent to deceive;
- (h) whether before or after becoming a public officer, willfully supply incorrect or misleading information in connection with his or her personal details;

- (i) directly or indirectly reveal or use for private purposes, any information coming to his knowledge or acquired by him or her either in the course of his or her duties or in his or her capacity as a public officer, otherwise than in proper discharge of his or her duties or as authorised by law or a competent authority;
- (j) comply with an instruction which is unlawful, improper, unethical or in breach of the Constitution or inconsistent with the Public Service Act or any other law or which may involve a possible maladministration and in such circumstances, the public officer shall report the matter in writing to an officer senior to the one giving the instruction;
- (k) maliciously or destructively criticise the work or conduct of another public officer;
- (l) be an active member of a political party nor speak in public on any political party or matter or take an active part in the support of any candidate in an election, and do anything by word or deed which is calculated to further the party political interests of any political party;
- (m) use illegal drugs and substances or abuse any other intoxicating substances, and shall not be found drunk at the workplace. Habitual drunkenness or addiction to drugs shall be viewed as damaging to the interest and the image of the public service;
- (n) commit a criminal offence involving dishonesty, misappropriation of public funds or cause damage to public property or bring public service into disrepute;
- (o) give or receive valuable presents whether in the form of money, goods or other personal benefits for services rendered except to the extent that he or she is specially permitted to do so by the head of department;

- (p) exploit his or her relationship with another officer or persons to gain advantage of him or her sexual or confer undue favour on him or her, for sexual acts or malpractices anywhere;
- (q) during working hours, engage in behaviour or conduct that disrupts or interferes with the work of other public officers;
- (r) write or circulate anonymous or vexatious letters or statements with malicious intent;
- (s) engage in, or encourage the practice of -
 - (i) habitual lateness to work and meetings;
 - (ii) irregular attendance to work;
 - (iii) using weather, poor transportation and domestic problems as an excuse for lateness and irregular attendance;
 - (iv) sleeping during scheduled working hours;
 - (v) trading, selling or transacting private financial business on work premises;
 - (vi) engaging in long private conversation with colleagues and eating in office during official working hours, and
 - (vii) disregarding deadlines and target dates agreed upon with his or her immediate Supervisor, and using delay tactics and red tape as an excuse for non responsiveness.

- (3) Nothing in this section shall be construed as preventing a public officer from becoming a member or shareholder of a company or society of persons registered under any law;

Health and welfare

- 4. (1) Smoking in Government premises is prohibited. Public officers shall only smoke in those areas that may be designated as smoking areas.

(2) A public officer shall not maliciously expose other public officers, colleagues and members of the public to infectious diseases or danger at the workplace.

Sanctions

5. A public officer who fails to comply with a standard of conduct in this Code shall be subjected to disciplinary action in accordance with the provisions of a Disciplinary Code made in Part III.

PART II – GRIEVANCE CODE

(Section 15(1)(a)(ii))

DIVISION 1 – GENERAL

Preamble

1. Inherent in the employment relationship is conflict of interests. It is for this reason that the Government of Lesotho is committed to establish a clearly defined grievance code in order to manage conflict within the public service.

Definition

2. In this Code-

“**grievance**” means a feeling of dissatisfaction or injustice which a public officer encounters in the workplace and is formally brought to the attention of the employer.

Objectives

3. The objectives of this Code are to –

- (a) settle the grievance as early and at the lowest level of supervision or management as possible;

- (b) create an opportunity and atmosphere for public officers to raise their complaints or dissatisfaction without fear;
- (c) create an opportunity for the employer to handle public officers grievances fairly and effectively.

Principles

4. The following are the guiding principles which shall be adhered to in handling a grievance under this Code -

- (a) a public officer shall have a fair hearing;
- (b) the rules of natural justice shall apply.

DIVISION 2 – GRIEVANCE PROCEDURE

Stage in procedure

5. The main stages through which a grievance shall be raised are set out in this Division.

Stage 1: Informal grievance

6. (1) An aggrieved public officer shall raise his or her grievance with his or her immediate supervisor.

(2) The immediate supervisor shall informally resolve the grievance within a reasonable time and not exceeding 48 hours or 2 working days.

(3) If the grievance is not resolved, the aggrieved public officer shall request a formal hearing to be instituted by making an application on the appropriate grievance form.

(4) The grievance form shall be submitted to the head of section or department within 5 working days after the informal grievance hearing.

Stage2: formal grievance hearing

7. (1) On receipt of the grievance form, the head of section shall arrange for a hearing within 5 working days of receipt.

(2) The following persons shall attend a formal grievance, hearing at-

- (a) the public officers' sectional head as the chairperson;
- (b) the public officers' immediate supervisor;
- (c) the public officer as the complainant;
- (d) the respondent;
- (e) the public officers' representative (a colleague at his or her department or ministry);
- (f) witnesses, if any;
- (g) a representative from the Human Resources Department who shall be the secretary and advisor on policy issues at the hearing.

(3) The aggrieved public officer and the respondent shall have a right of representation during a grievance hearing but the right to representation shall not include legal representation.

(4) The aggrieved public officer, supervisor and respondent have the right to cross examine.

(5) If still dissatisfied with the decision reached at the hearing, the aggrieved public officer has the right to appeal to the Head of the Department and shall file the appeal within five (5) working days from the date the decision was made.

Stage 3: Appeal hearing

8. (1) On receipt of the appeal from the aggrieved officer, the Head of the Department shall arrange for the appeal to be heard within five (5) working days from the date he or she received the appeal.

(2) The following persons shall attend an appeal hearing –

- (a) the Head of Department who shall be the chairman;
- (b) the public officer's immediate supervisor;
- (c) the appellant;
- (d) the respondent;
- (e) the public officers' representative (a colleague at his or her department or ministry);
- (f) witnesses, if any; and
- (g) a representative from the Human Resources Department who shall be the secretary and advisor on policy issues at the hearing.

(3) The appellant and the respondent shall have a right of representation during the appeal hearing, but the representation shall not include the legal representation.

(4) The officer and the supervisor shall have the right to cross examine.

(5) If the officer is not satisfied with the decision of the appeal hearing and wishes to pursue the matter he or she may declare a dispute and shall within five (5) working days from the date the decision was made, refer the matter to the Conciliation Board or arbitration depending on the nature of the dispute.

PART III – DISCIPLINARY CODE

(Section 15(i)(a)(iii))

DIVISION 1-GENERAL PRINCIPLES

Preamble

1. The Government of Lesotho is committed to maintain a disciplined public service.

Definition

2. In this Code,

“Disciplinary action” means a formal or informal action taken by management against a public officer who fails to conform with the rules and regulations governing public officers and has committed a misconduct.

Objectives

3. The main objectives of this Code are to –
 - (a) correct any unacceptable behaviour by a public officer and not necessarily to punish the public officer;
 - (b) deal with the matter as quickly and at the lowest level of management as possible; and
 - (c) ensure consistency and effectiveness in the application of discipline within the public service.

Principles

4. (1) The following are guiding principles which shall be adhered to in handling a disciplinary matter under this Code –
 - (a) a public officer shall have a fair hearing;
 - (b) the rules of natural justice shall apply;

- (c) notwithstanding paragraphs (a) and (b), where circumstances warrant, a disciplinary action may be instituted in the absence of a public officer if there is evidence to the supervisor's attempts to locate the officer in vain;
- (d) the Head of Section or Department in determining the appropriate sanction shall take into consideration the mitigating factors of the case;
- (e) the sanction shall be commensurate with the nature of the offence that has been committed;
- (f) the sanction shall as far as possible, be fair and consistent with disciplinary action previously taken in other similar circumstances.

DIVISION II – DISCIPLINARY PROCEDURE

Stages in disciplinary action

5. A public officer who commits a breach of discipline is liable to disciplinary action, the procedure of which shall be in stages set out in this Division.

Stage 1: Verbal warning

6. (1) Where a public officer commits a misconduct of a minor nature and/or it is for the first time, the officer's immediate supervisor shall –
- (a) identify the problem and cause;
 - (b) work out a solution to the problem;
 - (c) ensure that the officer knows what is expected of him or her;

- (d) warn the public officer verbally of the possible action that may be taken against him or her, for example, a misconduct charge in case of a repeated misconduct;

(2) The verbal warning shall not be recorded in the officer's personal file.

Stage 2: Written warning

7. (1) If the supervisor considers a misconduct to be of a serious nature or a repeated misconduct, the warning shall be reduced to writing, but before a written warning is issued, the steps in section 6 (1)(a), (b),(c) and (d) shall be observed.

(2) The supervisor shall cause the officer to sign the written warning.

(3) Failure to sign the written warning shall not invalidate the warning.

(4) The written warning shall be recorded in the officer's file and is valid for a period of six months from the date of issue.

(5) Notwithstanding subsection (4), an invalid written warning shall be used as supporting evidence in mitigation.

Stage 3: Disciplinary inquiry

8. (1) If a public officer commits a misconduct after being issued a written warning, or commits a misconduct that warrants a disciplinary inquiry, the supervisor shall-

- (a) arrange for a disciplinary inquiry to be conducted;
- (b) give the officer adequate notice of at least 48 hours or 2 working days before a disciplinary inquiry is held;
- (c) allow the public officer to have a representative who shall be a colleague within the officer's department or ministry.

- (2) The right to representation under this Division does not include the right to a legal practitioner.
- (3) The following persons shall attend a disciplinary inquiry –
 - (a) the public officer's Head of Section who shall be the chairperson;
 - (b) the public officer's immediate supervisor (complainant);
 - (c) the public officer (defendant);
 - (d) the representative of the Human Resources Department who shall be the secretary and advisor on policy issues at the hearing;
 - (e) the public officer's representative (a colleague at his or her department or ministry); and
 - (f) witnesses, if any.
- (4) The public officer and his or her representative have a right to cross examine.
- (5) At the end of the inquiry the Head of Section shall decide on a penalty which may be –
 - (a) a final written warning, which shall be signed by the officer, and be recorded in his or her file and is valid for a period of twelve months from the date of issue;
 - (b) any other sanction that may be reasonable in the circumstances.
- (6) Where dismissal of a public officer is being contemplated, the Head of Section shall recommend such dismissal to the Head of Department who shall after adequate investigation confirm the dismissal.

Stage 4: Appeal hearing

9. (1) If the public officer is dissatisfied with the decision reached at the disciplinary inquiry, he or she shall file an appeal with the Head of Department within 5 working days from the date on which the decision was made.

(2) On receipt of the appeal, the Head of the Department shall arrange for the appeal to be heard within 5 working days of the receipt.

(3) The following people shall attend the appeal hearing -

(a) the Head of the Department who shall be the chairperson;

(b) appellant;

(c) respondent (supervisor);

(d) a public officer's representative(a colleague at his or her department or ministry);

(e) the representative of the Human Resources Department who shall be the secretary and advisor on policy issues at the hearing;

(f) witnesses, if any.

(4) The right to representation under this Part does not include the right to be represented by a legal practitioner.

(5) The public officer and supervisor shall have the right to cross examine.

(6) If the public officer is not satisfied with the decision of the appeal hearing and wishes to pursue the matter, he or she may declare a dispute and shall, within 5 working days refer the dispute to the Conciliation Board or Arbitration depending on the nature of the matter.

(7) Once a dispute has been declared, it shall be dealt with in accordance with the Code on Dispute Resolution issued under section 15(1)(a)(v) of the Public Service Act 2005.

PART V – CODE ON DISPUTE RESOLUTION

(Section 15 (1)(a)(v))

Preamble

1. It is the Government policy that disputes be resolved as soon as possible and amicably through mediation, arbitration, and conciliation so as to avoid protected labour conflicts at the work place.

Definitions

2. In this Code -

“**Act**” means the Public Service Act of 2005;

“**dispute of interest**” means a dispute over employment matters to which a public officer or employer does not have an established right;

“**dispute of right**” means a dispute arising from a breach or contravention of a law, contract of employment or collective bargaining agreement.

Procedure for conciliation or arbitration

3. (1) Disputes of interest shall be referred to the Conciliation Board established under section 17 of the Act in the following manner –

- (a) any part to a dispute may, in writing, refer the matter to the Conciliation Board;
- (b) the party who refers the dispute shall satisfy the Conciliation Board that copy of the referral has been served on all the other parties to the dispute;

- (c) on receipt of the referral the Conciliation Board shall notify the parties of the date, time and place of the meeting and attempt to resolve the dispute through conciliation within 30 days of receipt of the referral;
- (d) the Conciliation Board shall after hearing the dispute, issue a certificate as to whether the issue has been resolved or remains unsolved;
- (e) if the dispute remains unresolved the matter shall be referred for arbitration or the Tribunal, established under section 20 of the Act for a final determination.

(2) The decision of the arbitration or Tribunal shall be final subject to review by the courts of law.

(3) Disputes of rights and those involving essential services shall, subject to section 18 of the Act, be referred for arbitration in the following manner -

- (a) the parties shall, in writing, agree on the arbitrator;
- (b) the party who refers the dispute shall satisfy the arbitrator that the copy of the referral has been served on the other parties to the dispute;
- (c) the arbitrator shall notify the parties of the date, time, place, of the meeting and resolve the dispute by arbitration within 30 days of receipt of the referral.

(4) The decision of the arbitration shall be final subject to review by the courts of law.

(5) Where a dispute is referred to the Tribunal or for arbitration, a party to the dispute may be represented by a legal practitioner.

DATED:

PAKALITHA BETHUEL MOSISILI
PRIME MINISTER OF LESOTHO AND MINISTER
OF PUBLIC SERVICE

NOTE

¹ Act No. 1 of 2005